

**Remarks**

Claims 4, 16, 20 and 33 have been amended. Claims 1 - 33 remain pending.

Claim 16 was rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter because the claim was directed to “computer software.” Claim 16 has been amended to recite a computer programmed by the software. It is submitted that this rejection is now overcome.

Claims 4, 20 and 33 were rejection under 35 U.S.C. 112, second paragraph, as being indefinite due to the use of the term “substantially” in these claims. Claims 4, 20 and 33 have been amended to delete the term “substantially”, so this basis of rejection should now be withdrawn.

Claims 1-3, 5, 6, 11-15, 17-19, 21, 22 and 27-33 were rejected under 35 U.S.C. 102(e) as being anticipated by Nicolas (U.S. Publication No. 2004/0252816).

Regarding claim 1, the Examiner has asserted that the feature “transmitting test data to the mobile device over a mobile communications network for output by the mobile” is disclosed by Nicolas at page 1, paragraphs [0020] and [0021]. The cited paragraphs [0020] and [0021] of Nicolas relate to a program, also referred to in paragraph [0028] as software named PRO, that allows the readout of sample survey questions, these sample survey questions also being referred to in paragraph [0031] as sample survey data DS. The program does not contain the sample survey data DS, as indicated at

paragraph [0031]: “Once the software (PRO) has been installed in the mobile telephone, it is thus ready to receive sample survey data (DS)”. There is no indication in Nicolas that the program contains “test data”, and furthermore no indication of any test data in the program “for output by the mobile”. Therefore, the program referred to in paragraphs [0020] and [0021] cannot correctly be considered to be “test data ... for output by the mobile”. Therefore, Nicolas does not disclose the feature “transmitting test data to the mobile device over a mobile communications network for output by the mobile”.

The Examiner has further asserted that the feature “providing query data to a user interface defining queries for display by the user interface, which queries concern the expected output of the test data by the mobile phone” is disclosed by Nicolas at page 1, paragraph [0021]. As Nicolas contains no disclosure of test data, as discussed above, there can be no disclosure of queries which concern the expected output of the test data by the mobile phone.

Furthermore, Nicolas at paragraph [0021] does not disclose queries which concern the expected output of test data. In paragraph [0021], the term “survey questions” is used, and it is clear from, for example, paragraphs [0001] and [0002] that the survey, and therefore the survey questions, relate to “opinions of a population”. There is no indication that the survey questions are in any way related to the expected output of test data. The questions relate solely to opinions. Therefore, Nicolas does not disclose the feature “providing query data to a user interface defining queries for display by the user interface, which queries concern the expected output of the test data by the mobile phone”.

Furthermore, the absence of test data, as discussed above, means that the scheme disclosed by Nicolas is not suitable for profiling characteristics of a mobile device.

Therefore, we consider that claim 1, and claims 2 to 16 depending from claim 1, are novel over Nicolas. Similar arguments apply to claim 17 and claims 18 to 32 depending from claim 17.

Claim 33 has been amended to align it with claim 1, based on paragraph [0034] of the application, by adding the following language: “defining queries concerning the output of test data by a mobile device”. Thus, claim 33 is also novel on the basis of the arguments above.

Since independent claims 1, 17 and 33 are novel based on the arguments above, each claim should be found to be allowable. Furthermore, the remaining pending claims depend from either claim 1 or 17, so all of the dependent claims are allowable on that basis. Therefore, allowance of all pending claims at an early date is respectfully requested.

No fee is believed due; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

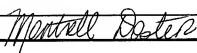
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